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EXAMINER	
STORK, KYLE R	

ART UNIT	PAPER NUMBER
2178	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/559,478	SIMON, RICHARD A.	
	Examiner	Art Unit	
	Kyle R. Stork	2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 November 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 4-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2 and 4-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This final office action is in response to the amendment filed 10 November 2005.

2. Claims 1-2, and 4-31 are pending. Claims 28-31 are newly added. Claims 1, 16, 22-25, and 27 are independent claims. The rejection of claims 1-2 and 4-27 under 35 U.S.C. 102 has been withdrawn as necessitated by the amendment. The rejection of claims 9-11, 17-18, and 21 under 35 U.S.C. 112 has been withdrawn as necessitated by the amendment.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-2, 4, 6-7, 9, 16, 22-25, and 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long et al. (US 2002/0095439, filed 20 February 1998, hereafter Long) and further in view of Kuchta (US 5805777, patented 8 September 1998).

As per independent claim 1, Long discloses a method of organizing a plurality of digital images in a predetermined page format utilizing a software program running on a computer, comprising the steps of:

- Grouping a plurality of digital images into a plurality of different page layouts, each of the page layout comprising:
    - Arranging the images to be nonoverlapping on a page layout (paragraphs 0047 and 0069)
    - Determining an amount of white space on the page layout (paragraphs 0048-0049)
- Wherein any one of the plurality of images may be located in any position in the plurality of page layouts, each of the page layouts capable of being printed and having white space between the plurality of digital images (paragraph 0040: Here, the images are randomly placed into the layout pattern; paragraph 0044 and 0105: Here, a printer is disclosed)
- Selecting a page layout having an amount of white space from the plurality of different page layouts (paragraphs 0045-0053: Here, the layout is adjusted according to rules, including rules based upon spatial balance of white space both horizontally and vertically)

Long fails to specifically disclose scaling the images to fit a page layout having a minimal amount of white space. However, Kuchta discloses scaling the images to fit a page layout having a minimal amount of white space (column 12, lines 57-62). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Kuchta with Long, since it would have allowed a user to fit images to a page for printing without changing the image's aspect ratio (Kuchta: column 12, lines 57-62).

As per dependent claim 2, Long discloses a method further comprising placing the plurality of digital images in the selected page layout (paragraphs 0036-0037: Here, the images are arranged on the page. The selected page layout (adjust page layout) involves the rearranging of images in accordance with the rules).

As per dependent claim 4, Long discloses a further comprising scoring each of the different page layouts (paragraph 0055-0060).

As per dependent claim 6, Long discloses the method wherein the amount of white space is minimized by using stochastic algorithms (paragraphs 0036-0063: Here, an initial layout is selected at random (stochastic)).

As per dependent claim 7, Long discloses the method wherein the different page layout includes placing images in a non-overlapping pattern (paragraph 0047: Here, no overlapping on a page is allowed).

As per dependent claim 9, Long discloses the method wherein analyzing of different page layouts comprises an iteration of comparing two different page layouts and selecting the best page layout until little or no further improvement in scoring is obtained (Figure 11).

As per independent claim 16, the applicant discloses the limitations similar to those in claim 1. Long further discloses a first computer for composing a plurality of digital images on a page (paragraph 0044). Claim 16 is similarly rejected under Long.

As per independent claim 22, the applicant discloses the limitations similar to those in claim 1. Claim 22 is similarly rejected under Long.

As per independent claim 23, the applicant discloses the limitations similar to those in claim 1. Long further discloses providing a plurality of digital images and selecting a number of digital images for placement (paragraph 0066: Here, a plurality of images are selected for placement). Claim 23 is similarly rejected under Long.

As per independent claim 24, the applicant discloses the limitations similar to those in claim 1. Long further discloses identifying an area to be void of digital images (paragraphs 0065-0067: Here, non-printable areas are areas which are to be void of digital images). Claim 24 is similarly rejected under Long.

As per dependent claim 25, the applicant discloses the limitations similar to those in claim 1. Long further discloses identifying at least one digital image and the location of the at least one predetermined image location (paragraph 0066). Claim 25 is similarly rejected under Long.

As per independent claim 27, the applicant discloses the limitations similar to those in claims 25. Claim 25 is similarly rejected under Long.

As per dependent claim 28, Long and Kutcha disclose the limitations similar to those in claim 1 and the same rejection is incorporated herein. Long further discloses positioning images isotropically (paragraphs 0048-0049). Long fails to specifically disclose scaling of images, however, Kutcha discloses image scaling (column 12, lines 57-62). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Kuchta with Long, since it would have allowed a user to fit images to a page for printing without changing the image's aspect ratio (Kuchta: column 12, lines 57-62).

As per dependent claim 29, Long and Kutcha disclose the limitations similar to those in claim 1, and the same rejection is incorporated herein. Long further discloses wherein grouping the plurality of images further comprising an aesthetic balance of images (paragraphs 0048-0049). Long fails to specifically disclose resizing of images, however, Kutcha discloses image resizing (column 12, lines 57-62). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Kuchta with Long, since it would have allowed a user to fit images to a page for printing without changing the image's aspect ratio (Kuchta: column 12, lines 57-62).

As per dependent claim 30, Long and Kutcha disclose the limitations similar to those in claim 1, and the same rejection is incorporated herein. Long further discloses randomly rotating an image or rotating the image in a predetermined pattern (Figures 1-2).

As per dependent claim 31, Long and Kutcha disclose the limitations similar to those in claim 1, and the same rejection is incorporated herein. Long further discloses spatially balancing the white space between the plurality of digital images (paragraphs 0048-0049).

5. Claims 5, 8, 10-12, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long and Kutcha and further in view of Rzepkowski et al. (US 6741270, filed 19 January 2000, hereafter Rzepkowski).

As per dependent claim 5, Long and Kutcha disclose the limitations similar to those in claim 1, and the same rejection is incorporated herein. Long fails to specifically

disclose scaling digital images by different amounts. However, Rzepkowski discloses scaling digital images by different amounts (Figure 7: Here, an image can be scaled proportional to the original image dimensions or by a different amount scaled to fit within a specified height and width).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long's method with Rzepkowski's method, since it would have allowed a user to fit an image into a fixed-area region (Rzepkowski: column 2, lines 5-10).

As per dependent claim 8, Long and Kutcha disclose the limitations similar to those in claim 1, and the same rejection is incorporated herein. Long fails to specifically disclose scaling digital images such that they fit within the page format. However, Rzepkowski discloses scaling digital images such that they fit within the page format (Figure 7; column 2, lines 35-50).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long's method with Rzepkowski's method, since it would have allowed a user to fit an image into a fixed-area region (Rzepkowski: column 2, lines 5-10).

As per dependent claim 10, Long and Kutcha disclose the limitations similar to those in claim 9, and the same rejection is incorporated herein. Long fails to specifically disclose scaling an image. However, Rzepkowski discloses scaling an image (Figure 7).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long's method with Rzepkowski's method, since it would have allowed a user to fit an image into a fixed-area region (Rzepkowski: column 2, lines 5-10).

As per dependent claim 11, Long and Kutcha disclose the limitations similar to those in claim 9, and the same rejection is incorporated herein. Long fails to specifically disclose rotating an image. However, Rzepkowski discloses image rotation (Figure 6, item 534; column 9, lines 20-32).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long's method with Rzepkowski's method, since it would have allowed a user to create an aesthetically pleasing document (Long: paragraph 0023).

As per dependent claim 12, Long, Kutcha, and Rzepkowski disclose the limitations similar to those in claim 8, and the same rejection is incorporated herein. Rzepkowski further discloses the method wherein the scaling comprises reducing the size of the digital images (Figure 7: Here, the scaling can be either a reduction or enlargement in size).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long's method with Rzepkowski's method, since it would have allowed a user to fit an image into a fixed-area region (Rzepkowski: column 2, lines 5-10).

As per dependent claim 14, Long, Kutcha, and Rzepkowski disclose the limitations similar to those in claim 12, and the same rejection is incorporated herein. Long further discloses the method wherein the white space is determined vertically between adjacent images in the page layouts (paragraph 0048).

As per dependent claim 14, Long and Rzepkowski disclose the limitations similar to those in claim 12, and the same rejection is incorporated herein. Long further discloses the method wherein the white space is determined horizontally between adjacent images in the page layouts (paragraph 0049).

6. Claims 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long and Kutcha and further in view of Arledge, Jr. et al. (US 6535294, filed 23 June 1998, hereafter Arledge).

As per dependent claim 17, Long and Kutcha disclose the limitations similar to those in claim 16, and the same rejection is incorporated herein. Long fails to specifically disclose the system wherein the computer can be accessed remotely over a communication network. However, Arledge discloses the system wherein the computer can be accessed remotely over a communication network (column 4, line 65- column 5, line 3).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long's system with Arledge's system, since it would have allowed a user to create a customized product (Arledge: column 5, lines 17-26).

As per dependent claim 18, Long, Kutcha, and Arledge disclose the limitations similar to those in claim 17, and the same rejection is incorporated herein. Arledge further discloses the system wherein the computer is accessed by a second computer (column 3, lines 18-38).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long and Arledge's system with Arledge's system, since it would have allowed a user at a remote computer to create a customized product over a network (Arledge: column 5, lines 17-26).

As per dependent claim 19, Long, Kutcha, and Arledge disclose the limitations similar to those in claim 18, and the same rejection is incorporated herein. Arledge further discloses the system wherein the software program is run on the first computer (column 5, lines 17-49).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long and Arledge's system with Arledge's system, since it would have allowed a user at a remote computer to create a customized product over a network (Arledge: column 5, lines 17-26).

As per dependent claim 20, Long, Kutcha, and Arledge disclose the limitations similar to those in claim 18, and the same rejection is incorporated herein. Arledge further discloses the system wherein the second computer is a personal computer of a customer (column 7, lines 30-50: Here, a client computer is a personal computer of a customer).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long and Arledge's system with Arledge's system, since it would have allowed a user at a remote computer to create a customized product over a network (Arledge: column 5, lines 17-26).

As per dependent claim 21, Long, Kutcha, and Arledge disclose the limitations similar to those in claim 17, and the same rejection is incorporated herein. Arledge further discloses the system wherein the computer is a retail kiosk (column 2, lines 42-54).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long and Arledge's system with Arledge's system, since it would have allowed a user at a remote computer to create a customized product over a network (Arledge: column 5, lines 17-26).

7. Claims 13 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long and Kutcha and further in view of Bolnick et al. (US 6043817, filed 30 September 1997, hereafter Bolnick).

As per dependent claim 13, Long and Kutcha disclose the limitations similar to those in claim 1, and the same rejection is incorporated herein. Long fails to specifically disclose providing a border on a page. However, Bolnick discloses providing a border (column 10, lines 47-54).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long's method with Bolnick's method, since it would have allowed a user to position images within the display region.

As per dependent claim 26, Long and Kutcha disclose the limitations similar to those in claim 25, and the same rejection is incorporated herein. Long fails to specifically disclose the user request of another page layout. However, Bolnick discloses a user request for a modified page layout (column 5, lines 7-25).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Long's method with Bolnick's method, since it would have allowed a user to modify a layout to fit user preferences.

Response to Arguments

8. Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

As disclosed above, the Kutcha reference has been added to address the applicant's amended claim limitations.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kyle R. Stork whose telephone number is (571) 272-4130. The examiner can normally be reached on Monday-Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kyle Stork
Patent Examiner

CESAR PAULA
PRIMARY EXAMINER